

THE EFFECTIVE DATE OF THIS ORDINANCE IS AUGUST 6, 2008

ORDINANCE NO. 08-22-498

AMENDMENTS TO THE FREDERICK COUNTY FOREST RESOURCE ORDINANCE

The Frederick County Board of County Commissioners ("BOCC") desires to adopt certain changes to the Forest Resource Ordinance – Chapter 1-21 of the Frederick County Code (FRO).

BACKGROUND

On December 15, 1992, as required by the Maryland Forest Conservation Act of 1991 ("FCA"), the BOCC enacted the original Forest Resource Ordinance ("FRO") by Ordinance No. 92-29-064. Thereafter, several legislative changes to the FCA were made, and certain policy decisions related to the FRO were implemented by the Frederick County Planning Commission, but no corresponding revisions were made to the Forest Resource Ordinance.

In September 2001, the BOCC adopted significant changes to the Forest Resource Ordinance, in accordance with recommendations from the State of Maryland. These changes included the addition of the Forest Banking Program and incorporation of the State Forest Conservation Technical Manual. In addition, certain clarifications to the FRO were necessary with respect to guarantee requirements and forest stand delineation components. Because of the extensive nature of the revisions, the Forest Resource Ordinance was repealed and reenacted in its entirety.

On June 19, 2007, the Board of County Commissioners held a public hearing for a proposed FRO text amendment, which made a number of changes to the FRO, including: applicability of the FRO; changes to afforestation values; terms of protective agreements; one-to-one reforestation replacement requirement; and certain administrative and ecological changes. The text amendment (Ordinance No. 07-25-465) was formally adopted by the BOCC on July 19, 2007.

At the June 19, 2007 public hearing, the BOCC indicated their desire that Staff proceed with drafting another FRO text amendment for a few additional administrative changes that had not been previously advertised. This Ordinance is the result of that direction. The BOCC formally voted to initiate the public hearing process for this Ordinance on June 5, 2008.

On July 9, 2008, the Frederick County Planning Commission held a public hearing on this Ordinance and voted to recommend approval. On August 5, 2008, the BOCC Commissioners held a duly advertised public hearing to discuss and hear public comment on this Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY, MARYLAND, that the Forest Resource Ordinance - Chapter 1-21 of the Frederick County Code - is amended as follows:

I. § 1-21-6 of the Frederick County Code is hereby amended as follows:

§ 1-21-6. APPLICABILITY AND GENERAL REQUIREMENTS. *

Except as provided in § 1-21-7, this chapter applies to property for which an application is being made for:

(A) A subdivision; or a grading or sediment and erosion control permit for an area comprising 40,000 square feet or greater;

(B) A public utility development project not exempt under § 1-21-7 that clears 40,000 square feet or more of forest;

(C) A site plan development project with a net tract area 40,000 square feet or greater.

(D) A SITE PLAN DEVELOPMENT PROJECT WITH A NET TRACT AREA LESS THAN 40,000 SQUARE FEET THAT GENERATES A FOREST MITIGATION REQUIREMENT OF 250 SQUARE FEET OR GREATER.

II. § 1-21-30 of the Frederick County Code is hereby amended as follows:

§ 1-21-30. PLANS IN GENERAL. *

* ~~Strike through~~ indicates language to be deleted. **BOLD CAPS** and underlined indicates language to be added.

(A) Plan applications. Applicants shall submit all plans on department-approved application forms and applicable fees. Applications shall be valid for 3 years after submission. Thereafter, the applicant must resubmit with new application forms and fees.

(B) Period of validity. **SUBJECT TO THE LIMITATIONS OF THE FOREST STAND DELINEATION APPROVAL PERIOD OUTLINED IN § 1-21-34 (C), All FOREST CONSERVATION** plans approved and signed by department representatives shall be valid for a period of 5 years **OR THE DURATION OF THE ADEQUATE PUBLIC FACILITIES APPROVAL FOR THE DEVELOPMENT PROJECT, WHICHEVER IS GREATER,** unless vested by execution of the short-term protective agreement described in § 1-21-10(A) and the long-term protective agreement described in § 1-21-10(B).

III. § 1-21-30 of the Frederick County Code is hereby amended as follows:

§ 1-21-34. FINAL FOREST CONSERVATION PLAN. *

[Subsections (A) and (B) remain unchanged.]

(C) Required information, in general. The FFCP shall contain the following:

(1) A map of the site drawn at the same scale as the grading or sediment and erosion control permit application drawings, site plan, or final subdivision plat;

(2) All the information required under §§ 1-21-31, 1-21-32 and 1-21-33, and the technical manual;

(3) Locations and types of protective devices to be used during construction activities to protect trees and areas of forest designated for conservation;

(4) A binding ~~2-year~~ forest improvements and protection agreement (FIPA), as described in § 1-21-10 that details how the areas designated for forestation will be maintained to ensure protection or satisfactory establishment, including:

(a) Watering, fertilizing, mowing and herbicide treatment; and

(b) A reinforcement planting provision if survival rates fall below required standards, as provided in § 1-21-43;

(5) A binding long-term protective agreement as specified in § 1-21-10 and COMAR 08.19.05.02 that:

* ~~Strike through~~ indicates language to be deleted. **BOLD CAPS** and underlined indicates language to be added.

(a) Provides protection for areas of forest conservation, including areas of forestation and retention, but not including individual street trees or other trees or areas afforded miscellaneous credits, as provided in § 1-21-44;

(b) Limits uses in areas of forest conservation to those uses that are consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest; and

(c) Incorporates conservation easements, deed restrictions, covenants, and other agreements as necessary, including, but not limited to, a graphic metes and bounds of all protected forest areas to be recorded in the Frederick County Land Records, either as part of a final plat or as part of the long-term protective agreement. Where county-owned property will be subject to a long term agreement, an inter-departmental written agreement incorporating the approved graphic metes and bounds description shall be executed and filed with the Department.

IV. Transitional Provisions: The following transitional provisions shall apply:

(1) The amendments and revisions to the FRO enacted by Section I of this Ordinance shall not apply to any site plan that has Planning Commission approval or Staff approval (as evidenced by Staff's signature on the site plan) as of the effective date of this Ordinance.

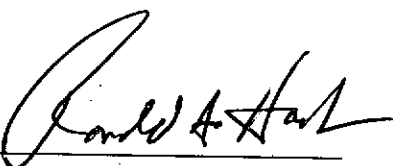
(2) Except as provided in subsection (1) above, this Ordinance shall apply to any MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan; and any revised MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan resulting in an increase in density or intensity of use, received by the Planning Department after the effective date of this Ordinance for approval, reapproval or extension.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall be effective as of August 6, 2008.

The undersigned hereby certify that this Ordinance was approved and adopted on the 56th day of August, 2008.

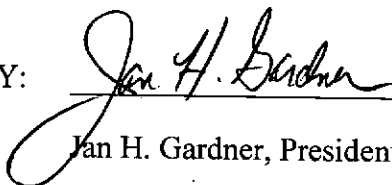
ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
FREDERICK COUNTY, MARYLAND



Ronald A. Hart
County Manager

BY:



Jan H. Gardner, President

(SEAL)

KAM
8/12/08